App F IX 4

Previous References (1941 Jne)

File No 56-41

Serial Nos. 728

Later References

GENERAL AND REVENUE SECRETARIAT.

Serial Nos 1200

Part B for Aug 1941

SUBJECT

Election of Mr Abdul Sattar as the Vice-President of the Thirtha Municipal Council, Tuticorin

To the Compiler
Copy to the DC Tuticorin

RO C 7231/Jne 56-41-8 of 28 7 41

Sanctioned

Notifies the ——

Ne
6/8/41

Election of vice-president - Tiptur Town Md

6443/F. General and Revenue Secretariat | File No | of 1940 | [App F III-2

Serial No

Letter no A6 C 608/40.41 dated 21-6-41 from the Deputy Commissioner, Tumkur Dist- requesting sanction to the election of Mr. M Abdul Sattar as vice-president of the Tiptur Town Md

1) An appeal petition received from Mr Ahamed Sheriff, the defeated candidate in this election, praying to set aside the election for the reasons stated therein has been separately submitted. This work, if agreed, be taken up after the appeal referred to above is decided

Hms 29/6/41 for 2) Where is it now pleased? HH Bowb

3) This has been submitted separately and is now on the Asst Secys table

Hms 30/6/41 for Law Secy) HH 30-6-

4) Submitted with a draft notification (Under orders of the Law Secy ~~the file head~~ in the limited file) below)

Hms 7/7/41 Law Secy) HH 7-7

Await disposal of the appeal petition

Hm 8/7/41

NOTE—Contn Sheet

5) Extract orders from the appeal petn file × × × × the × petn × may be served HH 9/7/41 Sd/- H 9/7/41

176

Election of Vice-President - Tiptur Town Municipal

6 Copies

File No 21 of 194• | General and Revenue Secretariat

Serial No

7) The appeal petition that was filed in connection with the election has been dismissed. For orders if the Notification already put up on the file may issue

Dno 176 4-8-41 (Sd) (Illegible)

26/7/41 for

Law Secy) W 26-7

Issue) W 26-7

W 26-7

TYPING 26 JULY 1941

8o

The compiler, reg. gazette

no 2 of 23 B 28/7/41

notifies the election of Mr. Abdul Sattar as the Vice President of the Tiptur Town Municipal

9o The D.C. Tumkur sent no 2 of 24 B 28/7/41

forwarding a copy of the above for information

B 8/8/41

6469

No A6 c 608/40-41
Enc One order copy
+1 Copy of Resolution

OFFICE OF THE DEPUTY COMMISSIONER
TUMKUR DISTRICT

Dated, Tumkur the 21st June *194* 1

Rl 56-41-7

LEGY LAW DEPT 23 JUNE 1941 FROM GVT OF MYSORE

GEN & REV SECRETARIAT 24 JUNE 1941 L.S.G BRANCH

K GURU DUTT, Esq, BA,
Deputy Commissioner,
Tumkur District, TUMKUR

To

H V NARAYANA RAO, Esqr, B A, LL B,
Secretary to the Government of Mysore,
Law Department, Bangalore

Subject — Re The election of a Vice-president for Tiptur town Municipality

=====

Sir

Adverting to Government Order No L 4834/M1 119-40-17 dated 23-12-1940, sanctioning the reconstitution of the Tiptur - Town Municipal council, for a perm of three years commencing from 1st January 1941, the Municipal Council at their meeting held on 6-4-1941 resolved that a non-official vice-president was necessary In accordance with the above resolution of the Council, a calendar of events was published fixing the date of election to 5th May 1941 The president states that a special meeting of the Municipal Council was held on 5-5-1941 for the election of the Vice-president and that 19 out of 20 councillors were present at the meeting The names of four candidates noted in the margin, who were nominated for the office of the vice-president were announced to the members present Two of the candidates withdrew their candidatures leaving the other two candidates to contest the election In the election held, Mr M Abdul Sattar secured 10 votes as against 9 secured by Mr Ahamed Sheriff alias Ummar Darwaz (the votes being recorded by ballot) Mr M Abdul Sattar who secured the highest number of votes was declared duly elected as Vice-president of this Municipality

Mr M Abdul Sattar
Mr Ahamed Sheriff alias Ummar Darwaz
Mr L Basappa
Mr P Gurappa

Subsequently an application was presented to this office

within the prescribed time limit, by Mr Ahamed Sheriff alias Ummar Darwaz and four other Municipal Councillors of Tiptur Town Municipality under Rule 12 of the Rules regulating the election of the Vice-presidents of Town Municipalities taking objection to the election of the opponent Mr M Abdul Sattar as Vice-president of the Tiptur Town Municipal Council held on 5-5-1941

After hearing the counsel on both sides, the petition was dismissed as there were no sufficient grounds for taking action under rule 13 of the Rules relating to the election of Vice-presidents and to address Government for setting aside the election A copy of my order, in this behalf is also enclosed for the information of Government

As the election is in order, I request that the name of Mr M Abdul Sattar, may be kindly got published, as the duly elected non-official Vice-president of the said Municipal Council as required under section 19 of the Town Municipalities Act of 1963

A copy of the proceedings of the special meeting held on 5-5-1941 in this behalf is also enclosed

I have the honour to be,
Sir,
Your most obedient servant,

Deputy Commissioner,
Tumkur District

K s v 21/6

In the Court of the Deputy Commissioner,
Tumkur District.

M6.c.608/40-41.

Present --K. Guru Dutt, Esq., B.A., Deputy Commissioner.

Petitioners -- Vs. Opponent --

Messrs. Abdul Sattar.
1. Ahmed Sheriff alias Ummar Darwaz
2. Basappa
3. Srikantiah
4. M Shivabasappa
5. B Nanjurdasetty.

ORDER

This is an application presented by Mr Ahmed Sheriff alias Ummar Darwaz and four other Municipal Councillors of Tiptur Municipality, Under Rule 12 of the Rules regulating the election of Vice-Presidents of Town Municipalities, taking objection to the election of the opponent Mr M Abdul Sattar as Vice-President of the Tiptur Municipal Council in the election held on 5-5-1941. The grounds urged are that one Mr. Gangappa had filed a petition in the Court of the District Judge, Bangalore in Mis No 131/40-41 questioning the validity of the election of Mr. S M Chengappa as Municipal Councillor and obtained an injunction restraining the said Mr S M Chengappa from taking his seat in the Council and exercising his powers as a councillor, but that he disobeyed the injunction and voted during the election of the Vice-President held on 5-5-1941. It is contended that if Mr Chengappa had not been allowed to vote, the two candidates viz the first petitioner and the opponent would have secured an equal number of votes and the matter would have had to be decided by drawing lots.

Mr Biligiri Ramachandra Rao as heard on behalf of the petitioners and Mr K Rangiengar and Mr G Muddappa on behalf of the opponent It is not in dispute that the election of Mr Chengappa as a councillor has been questioned and is still under enquiry in the District Court, that the District Court had issued an interim injunction restraining Mr Chengappa from voting

at the election of the Vice-President on 7-4-1941, and that Mr. Chengappa did take part in the election which was actually held on 5-5-1941

It was argued on behalf of the opponent that grant of temporary injunctions under Order XXXIX of the Civil Procedure Code was not applicable to enquiries in election disputes, as such a power was specifically provided only in respect of cases where any property in dispute in a suit was in danger or being wasted, damaged or alienated by any party to a suit or wrongfully sold in execution of a decree, or when the defendant threatens or intends to remove or dispose of his property with a view to defraud his creditors, whereas there was no suit pending here, nor any property in danger, such as would justify the issue of an injunction He relies on two decisions:--(1)A I R Madras 1923 - page 478 and (2) Madras Law Journal (1924) Volume 46 - page 50. In the former case the claim in a suit to obtain an injunction restraining certain persons from acting as councillors and as chairman was held not to be tenable. In the latter decision, it has been held that Rule 6 of the Rules framed by the Local Government under the Madras District Municipalities Act (corresponding to Sec.20(2) of the Mysore Town Municipalities Act) which provides that the procedure at an enquiry by a Court into the legality of an election should, as far as possible, be in accordance with the Code of Civil Procedure did not have the effect of making the provisions of Sec 94 and Order 39 Rule 2 of the Civil Procedure Code applicable to enquiries into election disputes, and that the order of the lower court granting an injunction was without jurisdiction and must be set aside.

It was also represented that even an injunction illegally issued would have to be obeyed provided it was issued by a Court having jurisdiction over the subject matter in controversy, but no such obedience was due if

if the Court had no jurisdiction in the matter involved, or if it had exceeded its powers by granting an injunction in a matter beyond its jurisdiction. He quotes "Woodroffé on Injunctions" page 72, where the point has been discussed and the case law summarised as follows --"An injunction of the type referred to above will be treated as absolutely void and the defendants cannot in such a case be punished for contempt for its alleged violation." It was urged that even granting that the injunction was valid, it was specific and merely restrained Mr Chengappa from exercising his vote at the meeting to be held on 7-4-1941, whereas the present election took place on an altogether different date viz. 5-5-1941.

Mr. Biligiri Ramachandra Rao argued that the injunction order was wide enough to cover any date on which the Vice-Presidential election was held up till the final decision of the election enquiry by the District Judge. He also stated that the question of validity or otherwise of the injunction was outside the scope of the present enquiry and that it should be given effect to until set aside by competent authority.

My own opinion is that there is considerable force in the arguments and authorities cited on behalf of the opponent It is not necessary however for our purposes to examine the legality or otherwise of the injunction order. The only question for us is how far it can affect the election held on 5-5-1941 It is seen that the President of the Municipal Council was not served with any order by the District Court. I do not see anything in the present injunction order itself which can have the effect of annulling the proceedings of a Municipal meeting which has been conducted regularly. If Mr Chengappa has disobeyed a valid injunction or order of the District Court, the parties aggrieved have to seek relief in the District Court itself. As the voting was by ballot, the contention that if Mr Chengappa had been restrained

from voting, each of the candidates would have [illegible] equal number of votes is a matter which is not capable of proof at this stage and therefore cannot be accepted as a valid ground for setting aside the election. In the result I do not consider that there are sufficient grounds for taking action under rule 13 of the Rules relating to the election of Vice-Presidents and to address Government for setting aside the election. The petition is therefore dismissed.

Dictated to Stenographer.

Sd/- [illegible]
District Commissioner,
Tumkur District.

[illegible]

[illegible]
[illegible]
[illegible]

SS/-.

Ml 56-41-8

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

No. L 723 / 12 Sept 41

ab

General and Revenue Secretariat

Dated Bangalore 28th July 1941

NOTIFICATION

Under Section 23 (4) of the Mysore ~~Section 10 (4) of the Mysore~~ Town Municipalities Act 1933 ~~Minor Municipalities Act, 1933~~ Mr M Abdul Sattar is elected as the Vice President of the Tiptur Town Municipal Council ~~Minor Municipal Council~~ Tumkur District,

Sd. by Mr. A. Arunachalam

By Order,

For Secretary to Government
Law Department

To—The Compiler Mysore Gazette for publication in Part III-3 of Gazette and supply of ten copies thereof to the Secretariat and to the Deputy Commissioner of the District Concerned

MEMO NO L 724/Ga-record dated 28th July 1941.

Copy of the above is forwarded with compliments to the Deputy Commissioner, Tumkur District for information with reference to his letter No A6 c608/4041 dated 21-6-1941

The records accompany

By Order,

For Secretary to Government,
Law Department

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, 28th July 1941.

No. L723/M56-41-8

NOTIFICATION.

Under Section 23 (4) of the Mysore Town Municipalities Act, 1933, Mr. M. Abdul Sattar is elected as the Vice President of the Tiptur Town Municipal Council, Tumkur District.

By Order,

Secretary to Government,
Law Department.

To

The Compiler, Mysore Gazette for publication in Part III-3 of Gazette and supply of ten copies thereof to the Secretariat and to the Deputy Commissioner of the District concerned.

MEMO NO. L724/1 Dated 28th July 1941

Copy of the above is forwarded, with compliments, to the Deputy Commissioner, Tumkur District, for information with reference to his letter No.A6.c 608/40-41 dated 21st June 1941 The records accompany.

By Order,

H. Annachalam

For Secretary to Government,
Law Department

NG/12.